



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

THE RULES DIGEST

February 2014

Scheduled for Committee review
Friday, February 07th, 2014
Room #116

Reference
XXXVI IAB No. 14(01/08/13)
XXXVI IAB No. 15(01/22/13)

HIGHLIGHTS IN THIS ISSUE:

CASA TRAINING, Child Advocacy Board 1
VISION SCREENING, Public Health Department 2
PHARMACY BENEFITS, Insurance Division 3
TRAFFIC CAMERAS, Department of Transportation 3

CHILD ADVOCACY BOARD

9:15

Court appointed special advocates (CASA) training program, 01/08/14 IAB, ARC 1285C, NOTICE.

The CASA program operates throughout the state and provides advocates for children who have been abused or neglected, are under court jurisdiction and are often placed in out-of-home care. The CASA advocate is a volunteer who has been certified by the child advocacy board for participation in the court appointed special advocate program. An advocate can be appointed by the court to represent the interest of a child in any judicial proceeding to which the child is a party or is called as a witness. Advocates receive at least 30 hours of pre-service training.

The new chapter formalizes requirements for the selection and screening of volunteers, pre-service training, ongoing education, and assignment and supervision of volunteers who serve as court appointed special advocates. Volunteer advocates are supported by coaches--other advocates who have more than two year of experience; these coaches can provide support for up to ten volunteers and provide oversight.

INSPECTIONS AND APPEALS

10:00

Exemption from food service licensing, 01/22/14 IAB, ARC 1291C, NOTICE.

This proposal would exempt certain assisted living and adult day services programs from the need to be licensed as food service establishments. Generally, establishments

that prepare food must be licensed by the department and comply with numerous regulatory requirements. The exemption sets out six requirements:

- All main meals and planned menu items must be prepared offsite;
- Baked goods that do not require temperature control for safety and single-service juice or milk may be stored in the program's kitchen;
- Ingredients used for food-related activities with tenants may be stored in the program's kitchen;
- Staff may prepare individual quantities of tenant-requested menu-substitution food items that require limited or no preparation;
- Tenants may take food items left over from a meal back to their apartments;
- Warewashing may be done in the program's kitchen as long as the program utilizes a commercial dishwasher.

## **PUBLIC HEALTH DEPARTMENT**

11:00

*Vision screening, 01/22/14 IAB, ARC 1293C, NOTICE.*

2013 Iowa Acts, Senate File 419, established a vision screening requirement for children enrolled in a public or accredited nonpublic elementary school. The rules specify the procedures that constitute a vision screening, specify who can conduct a screening, and prescribe reporting requirements. The parent or guardian of a child to be enrolled in a public or accredited nonpublic elementary school must have the child screened for vision impairment at least once before enrollment in kindergarten and again before enrollment in grade three. Prior to enrollment or during the enrollment period, each school shall provide vision screening referral resources to the parents or guardians of students enrolled in the school.

The screening may be provided by a variety of health care professionals or may be conducted over the internet. The results must be reported to the department, which may keep that data in a confidential database.

## **INSURANCE DIVISION**

10:30

*Pharmacy benefits manager, 01/22/14 IAB, ARC 1295C, NOTICE.*

Code Chapter 510B regulates pharmacy benefits managers; these individuals administer or manage prescription drug benefits provided by an insurer, health benefit plan, health maintenance organization, or similar third-party payor program. Managers coordinate the policy benefit between the insured, the pharmacy provider network, and

the insurer. Rulemaking initially began in January, 2008; with an effective date in September 2008. The rules relate to recordkeeping, auditing procedures, complaint procedures, and conditions of terminating a pharmacy agreement. The statute specifically requires rulemaking for timely payment of pharmacy claims and for a process for adjudication of complaints and disputes.

The current rules provide for an audit of the pharmacy records by a pharmacy benefits manager. In these amendments, as part of the audit process, if a pharmacy requests an independent third-party review of the final audit findings, and if the audit report is found to be substantiated, the cost of the third-party review shall be paid by the pharmacy, or if the audit report is found to be unsubstantiated, the cost of the third-party review shall be paid by the pharmacy benefits manager. The manager is prohibited from threatening any retaliatory action because of a pharmacy's filing of a complaint, grievance or appeal.

In these amendments, the time period for an insurer to pay a "clean claim" is reduced from 20 to 15 days. The rules also establish criteria for handling issues relating to reimbursement errors:

- The usual and customary price for compounded medications is considered the reimbursable cost, unless the pricing methodology is outlined in the provider contract.
- A finding of reimbursement error must be based on the actual error, not based on a projection of the number of patients served having a similar diagnosis, nor on a projection of the number of similar orders or refills for similar prescription drugs.
- Calculations of errors in reimbursement must not include dispensing fees unless: prescriptions were not actually dispensed; the prescriber denied authorizations; the prescriptions dispensed were medication errors by the pharmacy; or the amounts of the dispensing fees were incorrect.
- Any clerical or record-keeping error of the pharmacy, shall not be considered fraud by the pharmacy.
- In the case of an error that has no actual financial harm, the pharmacy benefits manager shall not assess a charge against the pharmacy.
- If a pharmacy has entered into a corrective action plan with a pharmacy benefits manager, errors that are a result of the pharmacy's failure to comply with such plan may be subject to recovery.
- Interest may not accrue during the audit period for either party.

## **DEPARTMENT OF TRANSPORTATION**

11:10

*Automated traffic enforcement systems, 01/08/14 IAB, ARC 1260C, ADOPTED.*

Automated traffic enforcement systems are high-resolution cameras used to detect speed or stop light violations. Civil citations are issued to the registered owner of the vehicle. These systems are largely owned and operated by a contractor working on behalf of the local jurisdiction. This final rules adoption establishes the requirements, application procedures, and responsibilities in the use of these enforcement systems on the primary road system, which is under the jurisdiction of the Department. These provisions apply to local jurisdictions wishing to install these systems and issue citations, no permission is required on locally controlled roadways. All mobile enforcement systems in a vehicle must be owned and operated by a law enforcement agency, be marked with official decals, and have an “official” license plate. The Department does not own, operate, or receive compensation for any automated traffic enforcement system.

Approval for automated systems will only be considered in areas with a documented high-crash or high-risk location in an area or intersection with a significant history of crashes attributed to red-light running or speeding, or a school zone. These standards include provisions relating to motorist safety, signage, and effectiveness. The rules place restrictions on the use of these systems, note that paragraphs “b” and “c” use the word “should”, this word is advisory, not mandatory:

- a. Automated enforcement shall only be considered after other engineering and enforcement solutions have been explored and implemented.
- b. An automated traffic enforcement system should not be used as a long-term solution for speeding or red-light running.
- c. Automated enforcement should only be considered in extremely limited situations on interstate roads because they are the safest class of any roadway in the state and they typically carry a significant amount of non-familiar motorists.
- d. Automated enforcement shall only be considered in areas with a documented high-crash or high-risk location in any of the following:
  - (1) An area or intersection with a significant history of crashes, which can be attributed to red-light running or speeding.
  - (2) A school zone.

The application process requires a six-part justification for the use of these systems. Once in place the systems must be evaluated annually to determine the effectiveness of that system on public safety and driver compliance with traffic laws. Continued use will be contingent on the effectiveness of the system, appropriate administration of it by the

local jurisdiction, the continued compliance with these rules, changes in traffic patterns, infrastructure improvements, and implementation of other identified safety countermeasures. The Department may require removal or modification of a system in a particular location, as appropriate.

The rules were initially reviewed by the Committee in October 2013. Opponents of the rules contended that the standards for the approval and location of these were too vague, allowing the department too much discretion in the approval process. Some contended that the decision should be based on local control and local circumstances. Representatives from cities and counties also opposed portions of the rules, noting that the annual review requirements made it difficult to contract for these systems. One city representative stated the city had entered into a five year contract with the provider providing all hardware.